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6 UNITED STATES DISTRICT COURT
7
8 DISTRICT OF NEVADA
9

10 KONSTANTIN ZOGGOLIS,)
11) Case No.:
12 Plaintiff,)
13 vs.)
14 WYNN LAS VEGAS, LLC, a Nevada) **COMPLAINT**
15 Limited Liability Company;)
16) Jury Trial Demanded
17 Defendant.)

18 COMES NOW, Plaintiff, Konstantin Zoggolis, and alleges against the
19 Defendant, Wynn Las Vegas as follows:
20

21 **FIRST CAUSE OF ACTION**
22 **BREACH OF CONTRACT**
23

24 **I.**

25 Jurisdiction is founded on diversity of citizenship and amount under 28
26 U.S.C. § 1332 in that Plaintiff is a citizen and resident of the Republic of Germany
27 and Defendant, Wynn Las Vegas, LLC is a limited liability company existing under
28 the laws of the State of Nevada, having its principal place of business in the State
of Nevada. The matter in controversy exceeds exclusive of interest and costs the

1 sum of Seventy Five Thousand Dollars (\$75,000.00).

2 **II.**

3
4 Prior to the filing of this Complaint, Plaintiff was a casino patron of the Wynn
5 Hotel for approximately five (5) years.

6 **III.**

7
8 On a date unknown to both Plaintiff and Defendant, Plaintiff entered into a
9 credit agreement with Defendant. In that agreement, Defendant agreed to cancel
10 or reduce Plaintiff's credit line upon Plaintiff's request.

11 **IV.**

12
13 The undated credit agreement indicates a credit line request in the amount
14 of \$150,000.00. On November 12, 2008, Plaintiff directed Defendant in writing that
15 his credit line with Defendant should be limited to \$250,000.00. On November 13,
16 2008, Defendant informed Plaintiff in writing that Plaintiff's credit line would be
17 limited to \$250,000.00 based upon Plaintiff's request.

18 **V.**

19
20
21 Nevada Gaming Commission Regulation 5.170(4) requires every gaming
22 licensee, that engages in the issuance of credit, to implement a program that allows
23 casino patrons to self-limit their access to the issuance of credit. Such programs
24 are required to contain standards and procedures that allow a patron to be
25 prohibited from access to the issuance of credit. Plaintiff exercised his right to self-
26 limit his access to the issuance of credit pursuant to N.G.C.R. 5.170(4).
27
28

VI.

By failing to limited Plaintiff's credit line to \$250,000.00, Defendant was in material breach of the credit agreement such that Plaintiff's duty to repay any markers in access of \$250,000.00 was discharged under common law contract principles. Defendant made an express promise to Plaintiff in the credit application that if it granted Plaintiff a line of credit it would cancel or reduce his credit line upon his request. Defendant made this promise for the purpose of ensuring responsible gaming. This credit cancellation promise is a material term of the bilateral contract between Plaintiff and Defendant.

VII.

The credit application and the markers were part of the same transaction such that a material breach of the credit agreement serves as a breach of contract defense to the enforcement not only of the credit application but all markers in excess of \$250,000.00.pursuant to NRS 104.3117.

SECOND CAUSE OF ACTION
RECOUPMENT

VIII.

Plaintiff repeats and realleges all of the allegations contained in Paragraphs I through VII.

IX.

The doctrine of recoupment allows a person to defend against a claim by asserting, up to the amount of the claim, a person's own claim against the claimant

1 growing out of the same transaction or set of transactions.

2 **X.**

3
4 Plaintiff is seeking to recover from Defendant the sum of \$1,300,000.00
5 evidenced by eleven (11) "markers" issued to him during the September /October
6 2010 time frame. Plaintiff has not sued Defendant to recover what it claims is owed
7 to it by Defendant but instead has requested the Clark County District Attorney's
8 office to prosecute Plaintiff under the Nevada bad check statute, NRS 205.130, to
9 collect that which Defendant claims is due and owing to it.
10

11 **XI.**

12
13 Plaintiff has a claim against Defendant for \$1,050,000.00 which represents
14 the amount of casino credit extended to him beyond his self-limited amount of
15 \$250,000.00. Plaintiff has an absolute right to reduce Defendant's demand by
16 \$1,050,000.00 because Defendant has not complied with its cross-obligation under
17 the credit agreement to limit Plaintiff's credit line to \$250,000.00.
18

19 **THIRD CAUSE OF ACTION**
20 **INJUNCTIVE RELIEF**

21 **XII.**

22
23 Plaintiff repeats and realleges all of the allegations contained in Paragraphs
24 I through XI.

25 **XIII.**

26
27 Defendant has requested the Clark County District Attorney's office to
28 prosecute Plaintiff pursuant to NRS 205.130 commonly referred to as the Nevada

1 “bad check” statute.

2 **XIV.**

3
4 If criminal proceedings are commenced against Plaintiff at the direction of
5 Defendant in an effort to collect invalid debts, Plaintiff will suffer irreparable harm
6 before a decision on the merits can be rendered. The balance of hardships favor
7 injunctive relief against Defendant because the potential harm from erroneously
8 granting an injunction is slight compared to the potential harm Plaintiff will sustain
9 from erroneously denying it.
10

11
12
13 WHEREFORE, Plaintiff, Konstantin Zoggolis, prays for judgment against
14 Defendant, Wynn Las Vegas, LLC as follows:

15 1. For the sum of \$1,050,000.00 plus pre-judgment interest from the date
16 of filing of this Complaint.

17
18 2. For an injunction prohibiting Defendant from initiating criminal
19 proceedings against Plaintiff under the Nevada “bad check” statute.

20
21 3. For all costs of suit and disbursements incurred by Plaintiff in
22 maintaining this action.

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24 ///

25 ///

26 ///

27 ///

5. For such other and further relief as this Court may deem just and proper.

s/ Gary Logan, Esq.

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